



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 27, 2018

The Honorable Keith Ellison
U.S. House of Representatives
2263 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Ellison:

Thank you for your letter regarding the participation of Ms. Elizabeth Ann Pierce on one of the Federal Communications Commission's advisory committees. As with all advisory committees, the Commission followed the requirements of the Federal Advisory Committee Act regarding the selection of Ms. Pierce and other members of the Broadband Deployment Advisory Committee. The selection process for all individuals nominated for a federal advisory committee includes ethics vetting by the Commission's Office of General Counsel. The Office of General Counsel reviews nominations to determine whether the nominee would serve to represent the interests of an entity with perspectives and often commercial interests relevant to the subject matter focus of the advisory committee (and for special government employees, whether he or she would provide disinterested advice to the Commission, subject to federal ethics rules and criminal prohibitions). The Office of General Counsel requests and reviews information from advisory committee nominees regarding personal financial interests and organizational positions to determine whether a nominee might have potential conflicts of interest with respect to matters that might come before the subject advisory committee. The Office of General Counsel provides advice to nominees and to the Commission regarding potential conflicts of interests identified in ethics vetting, including potential disqualification or resolution of conflicts as appropriate. Appointees to Commission advisory committees do not enter into ethics agreements.

The Commission formed the BDAC in early 2017, with a solicitation for applications from potential members that "represent various sectors of the communications industry, as well as state and local regulators, and consumers and community organizations." The Commission received over 380 applications for membership on the BDAC, resulting in the selection of 29 members and the subsequent selection of an additional 58 participants in the BDAC's working groups. The Office of General Counsel completed its ethics vetting process for each nominee before he or she became a member, and no problems regarding personal financial holdings or outside positions were identified in the process for any member.

Among those selected for the BDAC, staff recommended five nominees to potentially chair the committee. After consideration of all the nominees, Ms. Pierce was selected based on her apparent qualifications and recommendations received. Ms. Pierce was first contacted in mid-March 2017 about the possibility of chairing the BDAC and chaired the organizational meeting of the BDAC in April 2017. (I personally never spoke to Ms. Pierce about the BDAC until after she had been selected.) She participated in only one of the BDAC's working groups (Federal Siting Working Group) and chaired one further meeting in July, before working groups had developed any recommendations. In August 2017, my office was informed that Ms. Pierce

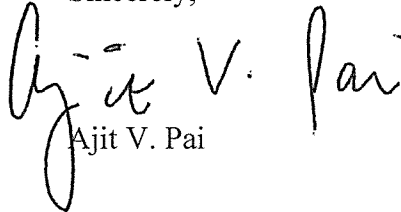
would be stepping down for personal reasons—and she formally resigned in September, before the BDAC or its working groups considered or approved any recommendations.

Neither FCC staff nor I were aware of the Department of Justice's investigation involving Ms. Pierce nor its findings before or during Ms. Pierce's participation in the BDAC.

Finally, you asked to better understand the work of the BDAC. All meetings of the BDAC are open to the public and all documents discussed at the meetings have been made public. In contrast, as with other advisory committees, deliberations by the working groups in formulating a recommendation for consideration are not public, but they are generally prepared by consensus by members of the particular working group. The working group process is followed by deliberation and votes on proposed recommendations by the working group and then by the BDAC. I have been pleased with the progress of the BDAC over the course of the last two years—all adopted recommendations have been approved by at least a super-majority of members, with many approved unanimously. I look forward to hearing the views of all stakeholders as the Commission moves forward with considering the BDAC's recommendations and continues its work to close the digital divide.

Thank you for your interest in this matter.

Sincerely,



Ajit V. Pai